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Legislative Document

No. 846

H.P. 580

House of Representatives, March 10, 2015

An Act To Refine and Streamline the Foreclosure Mediation Program

Reference to the Committee on Judiciary suggested and ordered printed.

Robert B. Hunt
ROBERT B. HUNT
Clerk

Presented by Representative HOBBS of Saco.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 4 MRSA §807, sub-§3, ¶R,** as corrected by RR 2013, c. 1, §6, is
3 amended to read:

4 R. A person who is not an attorney but who is a public accountant, enrolled agent,
5 enrolled actuary or any other person permitted to represent the taxpayer under Title
6 36, section 151-A, subsection 2 and is representing a party in any hearing, action or
7 proceeding before the Maine Board of Tax Appeals in accordance with Title 36,
8 section 151-D; ~~or~~

9 **Sec. 2. 4 MRSA §807, sub-§3, ¶S,** as reallocated by RR 2013, c. 1, §7, is
10 amended to read:

11 S. A person who is the sole member of a limited liability company or is a member of
12 a limited liability company that is owned by a married couple or registered domestic
13 partners who is not an attorney but is appearing for that company in an action for
14 forcible entry and detainer pursuant to Title 14, chapter 709.

15 This paragraph is repealed September 1, 2016; or

16 **Sec. 3. 4 MRSA §807, sub-§3, ¶T** is enacted to read:

17 T. An employee of a financial institution or credit union authorized to do business in
18 this State under Title 9-B, chapter 13 who is not an attorney but is attending a
19 mediation for that financial institution or credit union pursuant to Title 14, section
20 6321-A and has authority to agree to a proposed settlement, loan modification or
21 dismissal of the action.

22 **Sec. 4. 14 MRSA §6321-A, sub-§2, ¶¶B and C,** as enacted by PL 2009, c. 402,
23 §18, are amended to read:

24 B. A sample answer and an explanation that the defendant may fill out the form and
25 return it to the court in the envelope provided as the answer to the complaint. If the
26 debtor returns the form to the court, the defendant does not need to file a more formal
27 answer or responsive pleading and will be scheduled for mediation in accordance
28 with this section; ~~and~~

29 C. A description of the program; and

30 **Sec. 5. 14 MRSA §6321-A, sub-§2, ¶D** is enacted to read:

31 D. A box that the defendant may check to inform the court that the defendant does
32 not want to participate in mediation.

33 **Sec. 6. 14 MRSA §6321-A, sub-§7-A** is enacted to read:

34 7-A. Location of mediation. The mediator in a mediation under this section shall
35 determine the location of the mediation after consultation with the parties.

36 **Sec. 7. 14 MRSA §6321-A, sub-§11, ¶C,** as enacted by PL 2009, c. 402, §18, is
37 amended to read:

1 C. Counsel for the plaintiff or an employee of the plaintiff under Title 4, section 807,
2 subsection 3, paragraph T. If an employee of the plaintiff attends the mediation
3 under this paragraph, the plaintiff waives the right to counsel at the mediation; and

4 **Sec. 8. 14 MRSA §6321-A, sub-§12**, as enacted by PL 2009, c. 402, §18, is
5 amended to read:

6 **12. Good faith effort; attendance.** Each ~~party and each party's attorney, if any,~~
7 person listed under subsection 11 must be present at mediation as required by this section
8 and shall make a good faith effort to mediate all issues. If any ~~party or attorney~~ person
9 under subsection 11 fails to attend or to make a good faith effort to mediate, the court
10 may impose appropriate sanctions. The plaintiff is required to appear only at a mediation
11 required by this section and scheduled by the court.

12 **SUMMARY**

13 This bill permits an authorized employee of a financial institution or credit union
14 instead of an attorney to attend a foreclosure mediation on behalf of the financial
15 institution or credit union, allows a defendant to affirmatively decline attending the
16 mediation, grants authority to the mediator to determine the location of the mediation and
17 clarifies that the financial institution or credit union is required to appear only at a
18 required mediation scheduled by the court.